

SPECIAL ZONING DISTRICT NO. 9 REGULATIONS

Statement of Intent (Purpose):

The purpose of this District is to protect and enhance the residential nature of the area by providing for single-family residential dwellings and their accessory uses.

Uses Permitted Uses:

1. Conventional detached single-family dwellings constructed, assembled and erected on the land which they occupy. A dwelling is a building providing separate cooking, eating, sleeping, and living facilities for a family.
2. Detached single-family dwellings previously constructed and lived in elsewhere and constructed or restored to a standard which would meet or exceed all City of Helena building codes as of March 27, 1985, if the same had been in effect in the District. Such dwellings shall be placed upon a permanent foundation and shall comply fully with regulations for other residences within the Special Zoning District. (Section 2 added by Resolution 1985-26 on May 3, 1985.)
3. Modular detached single-family dwellings on permanent foundations. A modular dwelling is a detached one family dwelling with all of the following characteristics:
 - a. ~~(a)~~ Designed for long-term occupancy and containing sleeping accommodations, a flush toilet, a tub or shower bath, and kitchen facilities, with plumbing and electrical connections provided for attachment to outside systems;
 - b. ~~(b)~~ Designed to be transportable on temporary wheels, a flat bed, or some other type of trailer, but not on its own chassis;
 - c. ~~(c)~~ Designed without a permanent frame or undercarriage so that it can be placed on a permanent foundation prior to occupancy;
 - d. ~~(d)~~ Eligible for long-term amortized mortgage financing;
 - e. ~~(e)~~ That the factory construction is able to meet or exceed the uniform building codes;
 - f. ~~(f)~~ That the dwelling unit, when completed, shall be not less than twenty (20) feet in width.
4. Public and private institutions and uses.
5. Accessory uses, those uses of land or a subordinate building or portion of the main building, such use being secondary to or incidental to the principal use or structure.
6. Temporary buildings for and during construction.
7. Any building presently located within the boundaries of said District may be maintained and any lawful use presently being made of the lands in said District may be continued whether the same be in conformity with the provisions of ~~this~~ these regulations or not; provided, however, that if any non-conforming use is discontinued for a period of one hundred eighty (180) days ~~two (2) years~~, any future use thereafter shall be in conformity with the provisions of ~~this ordinance~~ these regulations. Buildings and lands devoted to present non-conforming uses may be maintained and altered, but shall not be expanded. ~~and building and lands presently used for non-conforming uses may not be devoted to any other non-conforming use than the use being made of such buildings or lands as of the date of the~~

enactment hereof. ***In addition, non-conforming uses of buildings and lands shall not be devoted to any other non-conforming use.*** This section shall not, however, be deemed to include the maintenance of any nuisance, obnoxious or unlawful activity on any land nor shall it be deemed to include any use which is not actually in existence as of the date hereof. Provided, however, that any tract on which there is more than one single-family dwelling at the time of enactment of this resolution may continue to be so used and occupied and no discontinuance of such a use will forfeit the right to reinstate such use, unless the market value of such additional dwelling(s) ~~or dwellings~~ is depreciated by more than fifty (50%) percent by fire, casualty, or deterioration, in which case such use shall be deemed a non-conforming use as of the date of such fire, casualty, or deterioration, subject to the termination provisions hereof.

Livestock Restrictions:

- 1. Maintaining large livestock, as defined in these regulations, is prohibited.***
- 2. Maintaining small livestock, as defined in these regulations, is subject to the following provisions:***

- a. A principal use or structure must exist on-site (or on an adjacent property(ies) under the same ownership) prior to maintaining livestock.***
- b. Minimum lot area:***
 - i. 1 pygmy goat per 0.2 acres;***
 - ii. pot-bellied pigs and rabbits are not subject to a minimum lot area requirement; and***
 - iii. 1 chicken, goose, duck, turkey, or other domesticated bird per .05 acres. The keeping of roosters and peacocks is prohibited; however.***

The minimum lot area specified must be provided for each animal maintained on the property.

- c. Setbacks from all property lines, existing wells, and existing drainfields for all livestock structures and fenced areas (including, but not limited to, corrals, pens, or other animal enclosures) shall be a minimum of twenty-five (25) feet.***
- d. Livestock excreta shall be removed from the site at sufficient intervals to prevent exposure of neighboring properties to odors, pests, and/or other obnoxious characteristics generated by the animals.***
- e. No degradation (including, but not limited to, overgrazing, odor, erosion, run-off of wastes, attraction of pests, property destruction) shall be allowed, regardless of compliance with other minimum standards.***
- f. Livestock shall be contained in such a manner to prevent damage to adjoining property, such as damage to vegetation, fencing and/or structures.***
- g. Commercial uses related to livestock (including, but not limited to, leasing a shelter(s), pen(s), stable(s), corral(s) or pasture(s)) are prohibited.***

Minimum Lot Area and Width:

Each lot shall be not less than one hundred ***(100)*** feet ~~(400)~~ in width and shall have a minimum area of ten thousand (10,000) square feet. In the case where ***an*** individual, on-lot~~site~~ water and/or ~~septic tank sewer~~ ***wastewater treatment system*** is provided, the minimum lot area shall conform to the ***Montana Department***

of Environmental Quality ~~State of Montana Health Board~~ requirements concerning for such systems.

Bulk Requirements:

1. ~~(1)~~ Front Yard. Every lot shall have a front yard extending not less than twenty (20) feet.
2. ~~(2)~~ Side Yards. Every lot shall have two (2) side yards extending not less than ten (10) feet each.
3. ~~(3)~~ Rear Yard. Each lot shall have a rear yard extending not less than twenty-five (25) feet.
4. ~~(4)~~ Height. No building shall be higher than twenty-four (24) feet with the exception of church spires or towers, measured from grade level to the highest point of the structure.
5. ~~(5)~~ Off-sStreet Parking. There shall be provided two (2) off-street parking spaces for each new residential use effective at the time of the adoption of this resolution.
6. ~~(6)~~ Garbage and refuse facilities. There shall be provided adequate receptacles for garbage on each lot, said receptacles to be of a type that can and shall be removed from the lots and no garbage, junk, or automobiles that are non-operable or other types of refuse shall be allowed to accumulate on any lot herein.

Adjustments:

~~—The Lewis and Clark County Board of Adjustments shall act as Board of Adjustments for the Southwest Kessler Planning and Zoning District, and shall exercise with respect thereto all powers conferred on it by law and by resolution of the Board of County Commissioners of Lewis and Clark County.~~

Variance Process:

Where, owing to special conditions, a literal enforcement of the zoning regulations would result in unnecessary and extreme hardship to a landowner, the landowner may request a variance from the regulations. Such request will be considered at a noticed public hearing by the Planning and Zoning Commission, which will make a recommendation to the Board of County Commissioners. The Board of County Commissioners shall have the power to authorize variances which are not contrary to the public interest and which are not detrimental to neighboring properties. A variance that would allow a use that is not allowed under the zoning will not be considered nor granted (an approved text amendment would be required).

Enforcement:

Penalty for Violation.

Any person or corporation, whether owner, lessee, principal agent, employee, or otherwise, who violates any provisions of these regulations or permits any such violation or fails to comply with any of the requirements thereof, or who erects, constructs, reconstructs, alters, enlarges, converts, moves, or uses any building or uses any land in violation of any detailed statement or plans submitted by him and approved under the provisions of these regulations, is subject to a fine of \$25.00 for each violation. Each day of continued violation after notification shall constitute a separate, additional violation.

Use of Available Remedies Authorized.

In the event that any building or structure is erected, reconstructed, altered, converted, or maintained,

or any building, structure, or land is used in violation of these regulations, the proper legal authorities of the Board of County Commissioners, in addition to other remedies, may institute any appropriate action or proceedings to prevent such unlawful erection, maintenance, or use, to restrain, correct, or abate such violation, to prevent the occupancy of such building, structure or land, or to prevent an illegal act, conduct, business, or use in or about such building, structure or land. At a minimum, violators will be required to restore property to original condition.

Validity/Severability Clause:

Should any section, subsection, sentence, or clause of this resolution be held invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the remaining portions of this resolution. ***The*** Board of County Commissioners hereby declares that it would have adopted such section, subsection, sentence or clause irrespective of the fact that one or more of such portions may be declared invalid.

District Limits:

The Boundaries of the ***Special*** ~~Southwest Kessler Planning and Zoning District~~ ***No. 9***, to which this resolution applies, are shown on Exhibit A attached hereto.

Definitions:

Livestock, large: cattle, sheep, goats (with the exception of a pygmy goat(s) maintained as a domestic pet(s)), swine (with the exception of a pot-bellied pig(s) maintained as a domestic pet(s)), horses, mules, asses, llamas, alpacas, bison, ostriches, rheas, emus, and domestic ungulates.

Livestock, small: pygmy goats and/or pot-bellied pigs maintained as domestic pets similar to a dog, rabbits, chickens, geese, ducks, turkeys, and other domesticated birds.

NOTE:

Original Adoption
Resolution 1973-26
July 31, 1973
Filed M Book 3, Page 2638

Amendment of District
Resolution 1985-26
May 3, 1985
Filed M Book 5, Page 5922